

REMARKS

Applicant respectfully requests reconsideration of this application as amended. Claims 1-29 are pending in the application. Claims 1, 12, 25, and 29 have been amended. No claims have been added. No claims have been canceled.

The Examiner rejected claims 1, 12, 13, 14, 15, 25, 28, and 29 under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter.

Applicant respectfully submits that claims 1, 12, 25 and 29, as amended, include a claimed practical application. Claim 1, as amended recites:

A computer-implemented method comprising:

gathering run-time capability and preference information for an application, client device and server regarding an application service object having executable code; and

directing replication of at least one application service object from the server to the client device based on the client, the server, and the application run-time capability and preference information to enable execution of the at least one application service object by the client device, wherein directing replication comprises **sending a replica of the at least one application service object to the client device from the server.** (Emphasis added).

Claim 1 is a computer-implemented method that includes the operations of *gathering* run-time capability and preference information, and *directing* replication of at least one application service object. Directing application of the at least one application service object includes *sending* a replica of the at least one application service object to the client device from the server. Sending a replicate of the at least one application service object to the client device from the server is not a mathematical or abstract idea, but rather constitutes a useful, concrete, and tangible result under MPEP 2106 because the result (e.g., sending a replica) has a real world practical application/use. Also, as noted in the Memorandum to the Technology Center Directors by the Deputy Commissioner, April 12, 2007, the claim need not include the uses to which the result is ultimately put, just the result itself. Applied here, claim 1 includes sending a replica of the at least one application service object to the client device as a result of gathering run-time capability and preference information and directing replication of the at least one application service object from the server to the client device based on the gathered information, which has a real world application/use. As such, claim 1 includes a “useful, concrete, and tangible” result, and is thus, statutory under MPEP 2106. Accordingly, Applicant respectfully requests that the rejection of claim 1 under 35 U.S.C. §101 be withdrawn.

Given that dependent claims 2-11 depend from independent claim 1, claims 2-11 also provide a useful, concrete, and tangible result, according to MPEP 2106. Accordingly, Applicant respectfully requests that the rejection of claims 2-11 under 35 U.S.C. §101 be withdrawn.

Claim 12, which is directed to an article of manufacture having one or more computer readable storage media, also includes a “useful, concrete, and tangible” result for similar reasons as described above with respect to claim 1, and thus, is statutory under MPEP 2106. Moreover, the article of manufacture of Claim 12 *stores functionally descriptive data* in the form of instructions that, when executed by a system, causes the system to perform operations according to the instructions, and accordingly, includes statutory subject matter because “[w]hen functional descriptive material is *recorded* on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized.” See, M.P.E.P. 2106(IV)(B)(1)(emphasis added). Since claim 12 is directed to functional descriptive material that is stored on the computer readable storage medium, the functional descriptive material is structurally and functionally interrelated to the medium, and thus, is statutory under MPEP 2106.

For the reasons state above, Applicant respectfully submits that claim 12 is directed to statutory subject matter under MPEP 2106, and respectfully requests that the rejection of claim 12 under 35 U.S.C. §101 be withdrawn.

Applicant respectfully submits that claims 13, 14, 15-24, and 28 are directed to statutory subject matter. Claims 13, 14, 15-24, and 28 are directed to a server, a client device, a system, and a server, respectively, and constitute machines according to MPEP 2106. Section 2106 of the MPEP provides that a claim limited to a machine, which has a practical application in the technological arts, is statutory. Section 2106 also provides that an apparatus claim with process steps is not classified as a “hybrid” claim; instead, it is simply an apparatus claim including functional limitations. In most cases, a claim to a specific machine or manufacture will have a practical application in the technological arts. See *Alappat*, 33 F.3d at 1544, 31 USPQ2d at 1557. This is not a disembodied mathematical concept which may be characterized as an 'abstract idea,' but rather a specific machine to produce a useful, concrete, and tangible result.”); and *State Street*, 149 F.3d at 1373, 47 USPQ2d at 1601 (“the transformation of data, representing discrete dollar amounts, by a machine through a series of mathematical calculations into a final share price, constitutes a practical application of a mathematical algorithm, formula, or calculation, because it produces 'a useful, concrete and tangible result' - a final share price

momentarily fixed for recording and reporting purposes and even accepted and relied upon by regulatory authorities and in subsequent trades."). See MPEP 2106(IV)(B)(2)(a). Applied here, claims 13, 14, 15-24 and 28, are directed to machines, not processes. Even though these claims include process steps, these claims are apparatus claims including functional limitations. For example, claim 13 is directed to a server that includes a network interface and a replication system having interfaces to gather information and a replication manager to direct replication. Although these components (e.g., network interface and replication system) perform functional operations, the claim is directed to a machine having structural limitations to perform these functional operations. Similarly, claims 14, 15-24, and 28 include structural limitations and constitute machines under MPEP 2106 that have practical application/use. As such, these claims are not directed to an abstract idea, but rather specific machines to produce a useful, concrete, and tangible result. Applicant respectfully requests that the rejections of claims 13, 14, 15-24, and 28 under 35 U.S.C. §101 be withdrawn.

Applicant respectfully submits that claims 25 and 29, as amended, include a claimed practical application. Claim 25, as amended recites:

A computer-implemented method comprising:

selecting a client device for replication of a replicable application service object having executable code, based on capability and preference information of the client device and a server on which the replicable application service object resides;

populating the client device with client-specific data;

choosing an appropriate replica to serve a service request originally targeted for the server to enable execution of the replicable application service object by the client device; and

servicing the service request original targeted for the server by executing the replicable application service object by the client device. (Emphasis added).

Claim 25 is a computer-implemented method that includes the operations of *selecting* a client device for replication of a replicable application service object, *populating* the client device with client-specific data, *choosing* an appropriate replicate to serve a service request originally targeted for the server, and *servicing* the service request by *executing* the replicable application service object by the client device. Servicing the service request by executing the replicable application service object by the client device is not a mathematical or abstract idea, but rather constitutes a useful, concrete, and tangible result under MPEP 2106 because the result (e.g., serviced service request originally targeted for the server) has a real world practical application/use. Also, as noted in the Memorandum to the Technology Center Directors by the Deputy Commissioner, April 12, 2007, the claim need not include the uses to which the result is

ultimately put, just the result itself. Applied here, claim 25 includes servicing the service requests originally targeted for the server as a result selecting the client device, populating the client device, and choosing an appropriate replica to serve the service request, which has a real world application/use. As such, claim 25 includes a “useful, concrete, and tangible” result, and is thus, statutory under MPEP 2106. Accordingly, Applicant respectfully requests that the rejection of claim 25 under 35 U.S.C. §101 be withdrawn.

Given that dependent claims 26-27 depend from independent claim 25, claims 26-27 also provide a useful, concrete, and tangible result, according to MPEP 2106. Accordingly, Applicant respectfully requests that the rejection of claims 26-27 under 35 U.S.C. §101 be withdrawn.

Claim 29, which is directed to an article of manufacture having one or more computer readable storage media, also includes a “useful, concrete, and tangible” result for similar reasons as described above with respect to claim 1, and thus, is statutory under MPEP 2106. Moreover, the article of manufacture of Claim 29 *stores functionally descriptive data* in the form of instructions that, when executed by a system, causes the system to perform operations according to the instructions, and accordingly, includes statutory subject matter because “[w]hen functional descriptive material is *recorded* on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized.” See, M.P.E.P. 2106(IV)(B)(1)(emphasis added). Since claim 29 is directed to functional descriptive material that is stored on the computer readable storage medium, the functional descriptive material is structurally and functionally interrelated to the medium, and thus, is statutory under MPEP 2106.

For the reasons state above, Applicant respectfully submits that claim 29 is directed to statutory subject matter under MPEP 2106, and respectfully requests that the rejection of claim 29 under 35 U.S.C. §101 be withdrawn.

CONCLUSION

Applicant submits that claims 1-29 as amended are now in condition for allowance and such action is earnestly solicited.

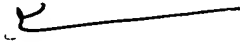
Accordingly, Applicants respectfully submit that the rejections to the claims have been overcome by the amendments and the remarks and withdrawal of these rejections is respectfully requested. Applicants submit that Claims 1-29 as amended are in condition for allowance and such action is earnestly solicited.

If there are any additional charges, please charge them to Deposit Account No. 02-2666.

Respectfully submitted,

BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP

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By: 
Michael J. Mallie
Reg. No. 36,591

1279 Oakmead Parkway
Sunnyvale, California 94085-4040
(408) 720-8300